



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,927	11/27/2001	Pieter A. Van Der Spek	P 284079 3738US/CNT1	5412

909 7590 09/25/2003

PILLSBURY WINTHROP, LLP
P.O. BOX 10500
MCLEAN, VA 22102

EXAMINER

SZEKELY, PETER A

ART UNIT	PAPER NUMBER
----------	--------------

1714

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/993,927	VAN DER SPEK ET AL.	
	Examiner	Art Unit	
	Peter Szekely	1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-15 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-5 and 7-13 are rejected under 35 U.S.C. 102(a) as being anticipated by BASF AG DE 196 53 042, with Gareiss et al. 6,469,095 serving as its English translation.
3. Gareiss et al. disclose melamine phosphate in column 1, line 58, polyesters from column 2, line 48, to column 3, line 11, polyamides from column 6, lines 21-67, ethylene acrylic acid copolymer in column 9, lines 49-67, glass fibers in column 14, line 24 and flame retardant blends in claim 6. See also claims 1-4 and 7. Applicants' claims are not novel.
4. Claims 1-5, 7-10 and 12-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Klatt et al. 6,538,054.
5. Klatt et al. teach a polyester, melamine cyanurate and phosphorus containing flame retardants in claim 1, phosphates, phosphines and phosphine oxides in claim 3, copolymers from column 8, line 19, to column 9, line 5, and glass fibers in column 11, lines 50-51. Applicants' claims are not novel.
6. Claims 1-5, 7-9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Taubitz et al. 4,866,114.
7. Taubitz et al. recite polyamide phosphorus containing compound and triazine radical containing compound in claim 1, phosphate and phosphine oxide in claim 3,

Art Unit: 1714

melamine cyanurate and melamine in claim 5, ethylene/ n-butyl acrylate maleic anhydride terpolymer in column 16, lines 48-51 and glass fibers in column 13, lines 55.

Applicants' claims are not novel.

8. Claims 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Saltman 5,091,478 or Statz 5,889,114.

9. Saltman displays polyesters and polyamides in column 7, lines 1-5, copolymers in column 7, lines 6-16, polyamides in column 9, lines 14-18, PET and PBT in column 9, lines 28-29, ethylene/n-butyl acrylate/ glycidyl methacrylate in column 10, lines 60-61, glass fibers in column 11, lines 8-9 and organophosphates in column 11, line 37. Statz reveals polyamides and polyesters in column 4, lines 55-58, copolymers in from column 4, line 59, to column 5, line 17, polyamides in column 5, lines 42-62, PET and PBT in column 6, lines 5-6, ethylene/n-butyl acrylate/ glycidyl methacrylate in column 7, lines 18-27 and column 8, line 66, glass fibers in column 7, line 36 and organophosphates in column 7, lines 54-55. Applicants' claims are not novel.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

Art Unit: 1714

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

12. Claims 1-5 and 7-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over BASF AG DE 196 53 042, with Gareiss et al. 6,469,095 used as its English translation, Klatt et al. 6,538,054 or Taubitz et al. 4,866,114.

13. All three references have been discussed already. It would have been obvious to one having ordinary skill in the art; at the time the invention was made, to select applicants' ingredients from a list of equivalents.

14. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltman 5,091,478 or Statz 5,889,114.

15. Both references have been discussed already. It would have been obvious to one having ordinary skill in the art; at the time the invention was made, to select applicants' ingredients from a list of equivalents.

Allowable Subject Matter

16. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

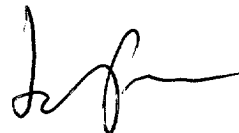
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (703) 308-2460. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (703) 306-2777. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Art Unit: 1714

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

A handwritten signature in black ink, appearing to read 'P. Szekely', with a stylized flourish at the end.

Peter Szekely
Primary Examiner
Art Unit 1714

P.S.
9/22/03